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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 KYLE ANDREW EVERHART,

12 Defendant.

CASE NO. CR13-5512 BHS

ORDER DENYING  
DEFENDANT'S MOTION

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14 This matter comes before the Court on Defendant Kyle Everhart's ("Everhart")  
15 motion for judgment of acquittal (Dkt. 127).

16 On September 23, 2014, the Court began a two day trial on the Government's  
17 charge against Everhart for possession with intent to distribute. Dkt. 112. On September  
18 24, 2014, the jury returned a verdict of guilty. Dkt. 120. On October 6, 2014, Everhart  
19 filed a motion for judgment of acquittal. Dkt. 126. On October 14, 2014, the  
20 Government responded. Dkt. 127.

21 On a Rule 29 motion for judgment of acquittal, the jury's verdict should be  
22 affirmed "if after viewing the evidence in the light most favorable to the prosecution, any

1 rational trier of fact could have found the essential elements of the crime beyond a  
2 reasonable doubt.” *United States v. Johnson*, 357 F.3d 980, 983 (9th Cir. 2004).

3 In this case, the Government presented sufficient evidence to affirm the verdict.  
4 First, Everhart was found in the hotel room with the drugs in question. Second, Everhart  
5 subsequently confessed to officers that the pills were his and that he was trying to raise  
6 money for his family before turning himself in on a separate arrest warrant. The jury is  
7 entitled to accept the Government’s evidence in the light most favorable to the  
8 Government. When viewing the evidence in this light, there was sufficient evidence to  
9 affirm the verdict of guilty of possession with intent to distribute. Therefore, the Court  
10 **DENIES** Everhart’s motion.

11 **IT IS SO ORDERED.**

12 Dated this 23<sup>rd</sup> day of October, 2014.

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16 BENJAMIN H. SETTLE  
17 United States District Judge  
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